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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

COALITION TO DEFEND AFFIRMATIVE ACTION, et al., Plaintiffs, v. ARNOLD SCHWARZENEGGER, et al., Defendants, and WARD CONNERLY, AMERICAN CIVIL RIGHTS FOUNDATION, a nonprofit public benefit corporation, and CALIFORNIA ASSOCIATION OF SCHOLARS, Proposed Defendant-Intervenors.	No. 3:10-cv-00641-SC **DECLARATION OF WARD CONNERLY IN SUPPORT OF MOTION TO INTERVENE** Date: July 23, 2010 Time: 10:00 a.m. Place: Department 1 Judge: The Hon. Samuel Conti

I, Ward Connerly, do hereby declare:

1. I have personal knowledge of the following facts and, if called upon to do so, could competently testify to the facts contained herein.

2. I am a taxpaying citizen and resident of the State of California.

3. I am the founder and president of the American Civil Rights Institute. I am a dues-paying member and a member of the Board of Directors of the American Civil Rights Foundation (ACRF). ACRF is a nonprofit, public interest corporation headquartered in

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Sacramento, California. ACRF is dedicated to eradicating practices of race- and sex-based discrimination and preferences by government entities throughout the nation. One of ACRF's goals is to enforce the California Civil Rights Initiative, which was adopted by the voters as Proposition 209 in 1996. Proposition 209 added Article I, section 31, to the California Constitution, which prohibits government entities in California, including the University of California, from discriminating against or granting preferential treatment on the basis of race, sex, color, ethnicity, or national origin in the operation of public employment, public contracting, and public education.

4. In 1995, I chaired the California Civil Rights Initiative campaign. In this capacity, I sponsored Proposition 209 and played an instrumental role in securing its passage in 1996.

5. This lawsuit was filed on February 16, 2010, in the United States District Court, Northern District of California. This lawsuit challenges the validity of Proposition 209.

6. As a sponsor of Proposition 209, I have an interest in averting the potential nullification of the constitutional amendment I helped to enact. Bringing to pass a society that considers the race, sex, color, ethnicity, or national origin of its citizens to be irrelevant when making decisions regarding an individual's merits or qualifications for education, employment, or other benefits of our free society has become one of the principal goals of my life. Adopting and enforcing civil rights laws that prohibit the government from using race, sex, color, ethnicity, or national origin in its decisionmaking process is one of the most significant ways to bring about the overall changes that I believe will greatly benefit our society. Both I and ACRF have a particular interest in the outcome of this lawsuit.

7. I am mentioned by name in the Plaintiffs' Complaint as the prime sponsor of Proposition 209. Plaintiffs also reference passages of my autobiography, and rely heavily on my participation in other pending lawsuits. *See* Compl. ¶¶ 13, 131, 132, 133, 135, 136, 137, 138, 139, 176, 184, 186, 188, 192, and 211.

8. I am familiar with the public positions taken by the named Defendants in this action. My interest as a sponsor of Proposition 209, and the interests of ACRF, in upholding and enforcing Proposition 209 will not be adequately represented or protected by the named Defendants.

Plaintiffs' Complaint has put me on notice that the named Defendants will not adequately represent me to ensure the constitutionality of Proposition 209. For example, the Complaint states that, "Many top UC officials have called for the repeal of Proposition 209," and, "The Attorney General has informed the California Supreme Court that Proposition 209 violates the Fourteenth Amendment." Compl. ¶¶ 32, 33. Moreover, Defendant Schwarzenegger is currently named as a defendant in a state court case alleging that Assembly Bill No. ABX421 (AB21), mandating race- and sex-based quotas when awarding public contracts, violates Proposition 209. *Connerly v. State*, No. 34-2010-80000412 (Sacramento County Super. Ct. filed Jan. 6, 2010). Additionally, Attorney General Jerry Brown has explicitly argued, in filed court documents, that Proposition 209 is unconstitutional. *Coral Constr., Inc. v. City & County of San Francisco*, No. S152934 (Cal. filed May 25, 2007). The Board of Regents, also, has taken steps to circumvent Proposition 209. The Regents and President Yudof have expressed support for admissions procedures explicitly intended to avoid Proposition 209's restrictions and requirements. *See* Compl. ¶ 31.

9. I have defended the constitutionality of Proposition 209 in prior litigation, including *Connerly v. Schwarzenegger*, 146 Cal. App. 4th 739 (2007) (challenging attempt by California Legislature to redefine the terms of Proposition 209); and *Connerly v. State Pers. Bd.*, 92 Cal. App. 4th 16 (2001) (successfully challenging several state statutes as violating Proposition 209).

I declare under penalty of perjury that the foregoing is true and correct, to the best of my knowledge, and that this declaration was executed this 14th day of June, 2010, at Sacramento, California.

WARD CONNERLY

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